

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
800 Data Base Access Tariffs and)
the 800 Service Management)
System Tariff)
)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

CC Docket No. 93-129

COMMENTS

Sprint Communications Company LP, pursuant to the Public Notice released September 27, 1993 (DA 93-1164), hereby respectfully submits its comments on the petitions for waivers of the requirement to disclose cost support filed by the BOCs, US West, and GTE in the above-captioned proceeding.¹ As discussed briefly below, failure to provide the information required by the Commission in its Investigation Order² will seriously compromise the ability of the Commission and interested parties to evaluate the reasonableness of the 800 data base rates.

¹ Ameritech, Bell Atlantic, BellSouth, Nynex, Pacific Bell, Nevada Bell, Southwestern Bell, Cincinnati Bell, and SNET--all of which used the Common Channel Signalling Cost Information System ("CCSCIS") model--filed a joint petition for waiver ("Bellcore petition") on September 16, 1993. US West--which used the Switching Cost Model ("SCM")--filed a separate Contingent Petition for Waiver as well as a Petition for Clarification or, In the Alternative, Reconsideration, on August 17, 1993. GTE filed a separate Petition for Waiver on September 20, 1993.

² 800 Data Base Access Tariffs and the 800 SMS Tariff, CC Docket No. 93-129, Order Designating Issues for Investigation, released July 19, 1993 (DA 93-930), para. 29.

In their petitions, the LECs request that the Commission waive its requirement that they disclose the computer models used to develop costs for their 800 data base rates. The LECs assert that their costing computer models are proprietary, that vendor information contained in the models is confidential, and that disclosure of either "would inflict great competitive harm" (Bellcore Petition, p. 3). In requesting confidential treatment for their computer models, the BOCs propose to provide the Bureau, but not the public, "direct and full" access to CCSCIS software and documentation; and provide "redacted documentation and/or workshops" to parties who execute an "appropriate" nondisclosure agreement (*id.*, pp. 10-11). US West is "willing to provide the SCM Model to the FCC in confidence" and "will extend all reasonable accommodations to parties in this matter so long as the confidentiality of the SCM Model is not compromised" (US West Petition for Clarification, p. 4). GTE, however, is apparently willing to provide information about its cost model and the model's results only to the FCC staff (GTE Petition, p. 5).

As the BOCs point out, the issue of the public disclosure of BOC costing models previously was raised before the Commission in the ONA investigation.³ Sprint agrees that some of

³ See, e.g., Commission Requirements for Cost Support Material to be Filed with Open Network Architecture Access Tariffs, DA 92-129, released January 31, 1992. In the ONA investigation, the BOCs initially provided SCIS/SCM information which was so heavily redacted as to be useless; they were accordingly directed to file less redacted

(Footnote Continued)

the lessons learned in that proceeding are relevant here. Most significantly, the extreme measures implemented to protect the confidentiality of the models and the vendor data seriously impeded meaningful analysis of the reasonableness of the ONA rates by intervenors. At a minimum, the Commission and other interested parties were denied the benefit of discussion about various points raised by intervenors, since the confidential portions of intervenors' comments were filed under seal. Because an order regarding the issues included in the ONA investigation has not yet been released, it is difficult to assess how complete a picture the Commission was able to obtain from its own analysis and from the compartmentalized comments of various intervenors.

Withholding access to key cost support information in the 800 data base investigation may be of even greater consequence than it was in the ONA investigation: while ONA is (at least for the present) an optional service offering,⁴ 800 data base query service is a monopoly offering without which IXC's are unable to provide 800 services. With the possible exception

(Footnote Continued)

information but were allowed to provide such information to individual intervenors (two cost analysts per intervenor) for only a single switch type.

⁴Data contained in the BOCs' 1993 annual access tariff filings indicate that they have experienced virtually no demand for ONA. IXC's, the major purchasers of access services, continue to purchase interstate switched access in bundled feature group packages.

of Ameritech,⁵ 800 data base service also accounts for a much greater percentage of LEC access revenues than do currently available local switching BSEs.

Sprint is not unsympathetic to reasonable concerns that proprietary or commercially sensitive information be afforded confidential treatment. Sprint is willing to limit its review of any confidential LEC information to regulatory and 800 product management employees, and these employees would, of course, execute appropriate nondisclosure agreements with the LECs. These agreements could specify, for example, that any analysis or information derived from a review of confidential information would be used only in the instant 800 data base investigation, and that any confidential material provided by the LECs to Sprint would be returned at the conclusion of this investigation. There would seem to be no valid reason why pleadings discussing "confidential" LEC information could not be made available to the employees or representatives of other intervenors who agree to be bound by these same protective arrangements.⁶ Sprint believes that these arrangements will provide sufficient protection to the LECs and that their computer models and related documentation should accordingly be provided to intervenors in this proceeding.

⁵Ameritech has always forecasted far higher BSE revenues than any of the other BOCs.

⁶Sprint would not object if pleadings discussing sensitive information were withheld from parties which do not execute a nondisclosure agreement.

The Commission should also consider whether the question of disclosure of the LECs' costing models is even an appropriate subject of a waiver petition. The request for confidential treatment has been made by all of the BOCs, CBT, SNET and GTE (which together handle the vast majority of 800 data base queries), and disputes over provision of information on computer models used to compute access rates are certain to arise in future access proceedings as well. Far from involving the kind of special circumstances which are supposed to underlie a petition for waiver,⁷ the instant waiver petitions seem instead to challenge the validity of the general rule requiring that a LEC provide sufficient cost support to justify proposed rates. Thus, if the Commission decides not to require the LECs to provide the costing information at issue here, it should institute a rulemaking to establish the general procedures under which LECs will provide information about their "confidential" computer costing models.

It is clear that evaluating the justness and reasonableness of 800 data base rates on the basis of "secret" information is contrary to the public interest. Assuming intervenors' willingness to execute nondisclosure agreements as described

⁷ VHF Drop-In Proceeding, 90 FCC 2d 160 (1982), aff'd sub nom. Springfield Television of Utah v. FCC, 710 F.2d 620 (D.C. Cir. 1983). See also WAIT Radio, Inc. v. FCC, 418 F.2d 1153 (D.C. Cir. 1969), cert. denied 409 U.S. 1027 (1972).

above, and given the lack of "special circumstances" involved here, the LEC petitions should be denied.

Respectfully submitted,

SPRINT COMMUNICATIONS COMPANY LP

A handwritten signature in cursive script, reading "Norina T. Moy". The signature is written in dark ink and is positioned above a horizontal line.

Leon M. Kestenbaum

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October 12, 1993

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Comments" of Sprint Communications Company L.P. was sent via first-class mail, postage prepaid, on this the 12th day of October, 1993, to the below-listed parties:

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